

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
December 27, 2011

In the Matter of HENRY/RADFORD, Minors.

No. 303839
Macomb Circuit Court
Family Division
LC Nos. 2009-000029-NA
2010-000172-NA

Before: SHAPIRO, P.J., and WHITBECK and GLEICHER, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err in finding that a statutory ground to terminate respondent's parental rights was established. MCR 3.977(K); *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding is 'clearly erroneous' [if,] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

The trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i) and (g) were established by clear and convincing evidence.¹ The conditions that led to the adjudication of D. Henry were that respondent abandoned him at his grandmother's house without giving the grandmother legal authority to care for him, D. Henry had been exposed to domestic violence, respondent had pending criminal issues, and respondent's whereabouts were unknown. With regard to A. Radford, the conditions that led to adjudication were that respondent and the child tested positive for methadone at the child's birth, A. Radford suffered from methadone withdrawal, and respondent did not have a home or income to care for this new baby. At the time of the termination hearing, more than two years after D. Henry entered care and nearly 14 months after A. Radford entered care, respondent was still using methadone and vicodin and testified that she did not tell the doctor who prescribed the vicodin that she took methadone. She

¹ Only one statutory ground needs to be established to terminate parental rights. MCL 712A.19b(3).

did not have housing for the children or income sufficient to maintain housing and care for them. Respondent denied domestic violence despite evidence to the contrary and did not address the issue of domestic violence. During the entire time this matter was pending, respondent never visited the children. Therefore, the conditions of adjudication continued to exist, and respondent was not able to provide proper care and custody for the children.

There was also no reasonable likelihood that respondent could rectify the conditions leading to adjudication and provide proper care and custody for the children within a reasonable time. Respondent argues that her case is similar to *In re Boursaw*, 239 Mich App 161, 176-178; 607 NW2d 408 (1999), overruled in part on other grounds, *In re Trejo*, 462 Mich 341, 354 n 12 ; 612 NW2d 407 (2000), in which this Court found that the petitioner did not establish that there was no reasonable likelihood that the conditions leading to adjudication could be rectified within a reasonable time. However, unlike the respondent in *Boursaw*, respondent here did not make significant strides in the two years this matter was pending, her psychological evaluation revealed a guarded prognosis, and she never visited her children because she did not submit to random drug screens despite multiple conversations with the foster care caseworker about the importance of the screening. Further, respondent continued to use methadone and vicodin although she attended some substance abuse counseling at the methadone clinic. Therefore, this matter is distinguishable from *Boursaw*, and the trial court did not clearly err in finding that there was no reasonable likelihood that the conditions of adjudication could be rectified within a reasonable time or that respondent would be able to provide proper care and custody within a reasonable time.

The trial court also did not clearly err in finding that termination of respondent's parental rights was in the best interests of the children. MCL 712A.19b(5). Respondent's argument that her lack of visitation with her children was not her fault, but rather the fault of petitioner for failing to make the proper referrals for drug screens so that she could have visitation, has little basis. The trial court found that petitioner established that respondent did not properly address her drug issues and that there was no proof that respondent called JAMS for drug screens since the inception of the parent-agency agreement. The foster care caseworker testified that she made multiple referrals to JAMS for respondent and that she discussed these referrals with respondent on several occasions. Respondent's failure to visit D. Henry surely severely weakened their bond and, because A. Radford was removed at birth, respondent never developed a bond with her. The trial court properly considered the lack of bond between respondent and the children, respondent's failure to resolve substance abuse issues, domestic violence issues, and criminal warrants, and the children's need for stability and permanency in making its best-interest determination. In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K).

Affirmed.

/s/ Douglas B. Shapiro
/s/ William C. Whitbeck
/s/ Elizabeth L. Gliecher